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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,430	10/17/2003	Janne La. Aaltonen	042933/269773	2213

826 7590 01/06/2009

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EXAMINER	
LAI, MICHAEL C	

ART UNIT	PAPER NUMBER
2457	

MAIL DATE	DELIVERY MODE
01/06/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/688,430	AALTONEN ET AL.	
	Examiner	Art Unit	
	MICHAEL C. LAI	2457	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *22 October 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6,8-25,27-42,44-59 and 61-71* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6,8-25,27-42,44-59 and 61-71* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This office action is responsive to amendment filed on 10/22/2008.

Response to Amendment

The examiner has acknowledged the amended claims 1, 8, 20, 27, 37, 44, 54, 61, and new claim 71. The claim objection to claim 20 has been corrected and withdrawn accordingly. Claims 1-6, 8-25, 27-42, 44-59 and 61-71 are pending.

Response to Arguments

Applicant's arguments filed 10/22/2008 have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that: A) nowhere does Hendricks teach or suggest that its terminal accesses content from memory, and that this access triggers the terminal to obtain its location (address) and store statistics including that location, similar to independent Claim 1 reciting that accessing content from memory triggers the terminal to obtain its location and store statistic(s) including that location. B) neither Hendricks nor Inoue, taken individually or in combination, teach or suggest a terminal accessing pre-broadcast content (including broadcast content) from memory, storing statistics related to that access, and sending those statistics to a destination before the related broadcast content is broadcast.

In response to A), note that independent claims 1, 11, 20, 29, 54, 63, and most dependent claims are replete with intended use recitations. The claim does not require anything new in that the limitations are “adapted to”, "configured to", "according to", "operable to", etc. perform steps that practically any computer can be configured to

perform. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Applicant failed to specifically point out any further contentions and thus, failed to claim the subject matter which applicant regards as the invention. In the case of claim 1, Hendricks discloses a system comprising a terminal (FIG. 3, 220 Set top terminal) and a destination (FIG. 3, 202 Operations Center). Thus Hendricks meets the limitations of claim 1. Note that claim 1 also has another defect. The first limitation recites that the terminal is in an offline manner, but the second limitation recites that the destination receives the content usage log from the terminal. This is impossible because for the terminal to send the log, it must be online.

In addition, Hendricks discloses a set-top terminal that stores data tracking those programs that have been selected for viewing and, after receiving a polling request message addressed to the terminal, the terminal sends to the requesting Operations Center, a response message including its address and information (program access information) related to the terminal's access of broadcast programs (see column 13 line 56 through column 14 line 6, and column 15 line 55 through column 16 line14). Since the response message includes the terminal's address, the terminal must obtain its location in response to the request. The Operations Center receives the broadcast information including the location of the set top terminal from the terminal. Indeed,

Hendricks discloses all structure and functionalities in claim1 even given consideration to the intended use of claim 1.

For response to B), please see the response to A) above.

Thus, in view of such, the rejection is sustained as follows:

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1 and 8, the term “its” renders the claims indefinite because it is unclear what exactly “it” is referring to.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-6, 8-25, 27-42, 44-59 and 61-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks et al. (US 5,798,785, hereinafter Hendricks) in view of Inoue et al. (US 5,826,168, hereinafter Inoue).

5. Regarding claim 1, Hendricks discloses a system comprising:

a terminal configured to access at least one piece of content from a memory of the terminal after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the terminal to obtain its location (address field 924 FIG. 7b ; col. 15, lines 55-65), the terminal being configured to obtain its location in response to the trigger, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the access of the at least one piece of content from memory, and wherein at least one content usage statistic comprises the location of the terminal (220 Set top terminal FIG. 3 and col. 9 line 21 through col. 10 line 62); and

a destination configured to receive the content usage log including the at least one content usage statistic (202 Operations Center Fig. 3 and col. 9, lines 11-19).

Hendricks discloses substantially all the limitations in claim 1, but fails to teach accessing at least one piece of content from a memory of the terminal in an offline manner (pre-broadcast content, application page 5, lines 19-28). However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing

schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

6. Regarding claim 2, Hendricks further discloses wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (col. 9, lines 50-59), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (col. 10, lines 25-31).

7. Regarding claim 3, Hendricks further discloses wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established (col. 13 line 56 through col. 14 line 6. Note that cable headend 208 communicates with operation center 202 or statistical and billing sites).

8. Regarding claim 4, Hendricks fails to disclose that the terminal is configured to access at least one piece of pre-broadcast content related to broadcast content, and wherein the terminal is configured to send the content usage log to the destination before the broadcast content is broadcast. However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person

with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50). It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to try to collect pre-broadcast statistics by sending the content usage log to the destination before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion.

9. Regarding claim 5, Hendricks fails to disclose the limitations. However, Inoue teaches wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

10. Regarding claim 6, Hendricks further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic

related to at least one of the terminal and the at least one piece of content accessed from the memory (col. 10, lines 13-24).

11. Regarding claim 8, Hendricks further discloses wherein the terminal is configured to repeatedly access at least one piece of content, each access being a trigger to the terminal to obtain its location the terminal being configured to obtain its location in response to each trigger and store at least one content usage statistic for at least one period of time, and wherein the terminal is further configured to send the content usage log to the destination after each period of time (col. 13 line 56 through col. 14 line 6; col. 15, lines 55-65).

12. Regarding claim 9, Hendricks further discloses wherein the destination is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic (col. 29, lines 26-43).

13. Regarding claim 10, Hendricks further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types (col. 7, lines 15-29, capacity improvement).

14. Regarding claim 11, Hendricks discloses a system comprising:

a terminal configured to access at least one piece of content from a memory (220 Set top terminal FIG. 3 and col. 9 line 21 through col. 10 line 62); and

a destination configured to receive the content usage log including the at least one content usage statistic (202 Operations Center Fig. 3 and col. 9, lines 11-19).

Hendricks discloses substantially all the limitations in claim 11, but fails to teach wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory. However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

Hendricks discloses substantially all the limitations in claim 11 as discussed above, but fails to teach that the destination configured to receive one content usage statistic before the broadcast content is broadcast. However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to try to collect pre-broadcast statistics by receiving content usage statistic before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion.

15. Regarding claim 12, Hendricks further discloses wherein the terminal is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (col. 9, lines 50-59), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (col. 10, lines 25-31).

16. Regarding claim 13, Hendricks further discloses wherein the terminal is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established (col. 13 line 56 through col. 14 line 6. Note that cable headend 208 communicates with operation center 202 or statistical and billing sites).

17. Regarding claim 14, Hendricks further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the terminal and the at least one piece of content accessed from the memory (col. 10, lines 13-24).

18. Regarding claim 15, Hendricks discloses substantially all the limitations in claim 11, but fails to teach accessing at least one piece of content from a memory of a terminal in an offline manner (pre-broadcast content, application page 5, lines 19-28). However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

19. Regarding claim 16, Hendricks further discloses wherein the terminal is configured to repeatedly access at least one piece of content and storing at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the terminal is configured to send the content usage log to the destination

after the period of time and before the broadcast content is broadcast (col. 13 line 56 through col. 14 line 6; col. 15, lines 55-65).

20. Regarding claim 17, Hendricks fails to disclose the limitations. However, Inoue teaches wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

21. Regarding claim 18, Hendricks further discloses wherein the destination (a viewing information server) is configured to receive the content usage log including the at least one content usage statistic such that a network entity is configured to send, to the terminal, at least one piece of content based upon the at least one content usage statistic (col. 29, lines 26-43).

22. Regarding claim 19, Hendricks further discloses wherein the terminal is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used

connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types (col. 7, lines 15-29, capacity improvement).

23. Regarding claim 20, Hendricks discloses an apparatus comprising:

a controller (microprocessor 602 FIG. 4) configured to access at least one piece of content from a memory after receipt of the at least one piece of content, the access of the at least one piece of content being a trigger to the controller to obtain a location of the apparatus, the controller being configured to obtain the location of the apparatus in response to the trigger (address field 924 FIG. 7b ; col. 15, lines 55-65; col. 10, lines 13-24), and

wherein the controller is also configured to store, into a content usage log, at least one content usage statistic relating to the accessing of the at least one piece of content from memory, wherein at least one content usage statistic comprises the location of the apparatus (col. 9 line 21 through col. 10 line 62).

Hendricks discloses substantially all the limitations in claim 20, but fails to teach accessing at least one piece of content from a memory of the terminal in an offline manner (pre-broadcast content, application page 5, lines 19-28). However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a

person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

24. Regarding claim 21, Hendricks further discloses wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (col. 9, lines 50-59), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (col. 10, lines 25-31).

25. Regarding claim 22, Hendricks further discloses wherein the apparatus is configured to send the content usage log to the destination when a return channel between the terminal and the destination is at least one of available or established (col. 13 line 56 through col. 14 line 6. Note that cable headend 208 communicates with operation center 202 or statistical and billing sites).

26. Regarding claim 23, Hendricks fails to disclose that the apparatus is configured to receive and store at least one piece of pre-broadcast content related to broadcast content, and wherein the controller is configured to send the content usage log to a destination before the broadcast content is broadcast. However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately

reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50). It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to try to collect pre-broadcast statistics by sending the content usage log to the destination before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion.

27. Regarding claim 24, Hendricks fails to disclose the limitations. However, Inoue teaches wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

28. Regarding claim 25, Hendricks further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one statistic related to at least one of the apparatus or the at least one piece of content accessed from the memory of the apparatus (col. 10, lines 13-24).

29. Regarding claim 27, Hendricks further discloses wherein the controller is configured to repeatedly access at least one piece of content, each access being a trigger to the controller to obtain the location of the apparatus, and the controller is configured to obtain the location of the apparatus in response to each trigger, and repeatedly store at least one content usage statistic for at least one period of time, and wherein the controller is further configured to send the content usage log to a destination after each period of time (col. 13 line 56 through col. 14 line 6; col. 15, lines 55-65).

30. Regarding claim 28, Hendricks further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types (col. 7, lines 15-29, capacity improvement).

31. Regarding claim 29, Hendricks discloses an apparatus comprising:

a controller configured to access at least one piece of content from a memory (220 Set top terminal FIG. 3 and col. 9 line 21 through col. 10 line 62),

wherein the controller is also configured to store, into a content usage log (col. 9 line 21 through col. 10 line 62).

Hendricks discloses substantially all the limitations in claim 29, but fails to teach wherein the at least one piece of content comprises at least one piece of pre-broadcast content related to broadcast content, the pre-broadcast content including the broadcast content, wherein the terminal is also configured to store, into a content usage log, at least one content usage statistic relating to the terminal accessing the at least one piece of pre-broadcast content from the memory. However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

Hendricks discloses substantially all the limitations in claim 11 as discussed above, but fails to teach that the destination configured to receive one content usage statistic before the broadcast content is broadcast. However, Inoue teaches a near

video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment (pre-broadcast) is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to try to collect pre-broadcast statistics by receiving content usage statistic before the broadcast content is broadcast, thereby providing useful information about media sampling/promotion.

31. Regarding claim 30, Hendricks further discloses wherein the apparatus is configured to receive at least one piece of content in accordance with a broadband data broadcast technique (col. 9, lines 50-59), and wherein the at least one piece of content comprises at least one piece of content for at least one channel comprising at least one of a television, radio or data channel (col. 10, lines 25-31).

32. Regarding claim 31, Hendricks further discloses wherein the apparatus is configured to send the content usage log to the destination when a return channel between the apparatus and the destination is at least one of available or established (col. 13 line 56 through col. 14 line 6. Note that cable headend 208 communicates with operation center 202 or statistical and billing sites).

33. Regarding claim 32, Hendricks further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one

statistic related to at least one of the apparatus and the at least one piece of content accessed from the memory of the apparatus(col. 10, lines 13-24).

34. Regarding claim 33, Hendricks discloses substantially all the limitations in claim 11, but fails to teach accessing at least one piece of content from a memory of an apparatus in an offline manner (pre-broadcast content, application page 5, lines 19-28). However, Inoue teaches a near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus. When a user requests reception and display of the video program, the pre-recorded segment is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program (col. 8, lines 37-49). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

35. Regarding claim 34, Hendricks further discloses wherein the controller is configured to repeatedly access at least one piece of content and repeatedly store at least one content usage statistic for a period of time before the broadcast content is broadcast, and wherein the terminal is configured to send the content usage log to a destination after the period of time and before the broadcast content is broadcast (col. 13 line 56 through col. 14 line 6; col. 15, lines 55-65).

36. Regarding claim 35, Hendricks fails to disclose the limitations. However, Inoue teaches wherein the at least one piece of pre-broadcast content comprises a set of at least one television program over a given time period for at least one television channel (FIG. 2B), wherein the terminal is configured to access the at least one piece of pre-broadcast content at least a predefined period of time before the broadcast content is broadcast (T1 FIG. 2B), and wherein the predefined period of time comprises the given time period (17 minutes FIG. 2B). It would have been obvious to a person with ordinary skill in the art at the time the invention was made to incorporate Inoue's teaching into Hendricks' system for the purpose of accommodating the viewing schedule of a user by buffering the display of video signals transmitted by a broadcaster, thereby providing a true near video-on-demand service (col. 2, lines 47-50).

37. Regarding claim 36, Hendricks further discloses wherein the controller is configured to store at least one content usage statistic further comprising at least one of a type of the at least one piece of content accessed from the memory, a time the at least one piece of content was accessed from memory, information regarding used connection types, or information regarding available connection types comprising at least one of a signal strength, capacity or utilization rate of the connection types (col. 7, lines 15-29, capacity improvement).

38. Claims 37-39, 42, 44-45 are of the same scope as claims 1-3, 6, 8, and 10 respectively. They are rejected for the same reasons as for claims 1-3, 6, 8, and 10 respectively.

39. Claims 40-41, 46-53 are of the same scope as claims 4-5, 11-17, and 19 respectively. They are rejected for the same reasons as for claims 4-5, 11-17, and 19 respectively.

40. Claims 54-56, 59, 61-62 are of the same scope as claims 1-3, 6, 8, and 10 respectively. They are rejected for the same reasons as for claims 1-3, 6, 8, and 10 respectively.

41. Claims 57-58, 63-70 are of the same scope as claims 4-5, 11-17, and 19 respectively. They are rejected for the same reasons as for claims 4-5, 11-17, and 19 respectively.

42. Regarding claim 71, Hendricks further discloses wherein the controller being configured to obtain the location of the apparatus in response to the trigger includes being configured to obtain a geographic location of the apparatus in response to the trigger (col. 16, lines 4-15).

Conclusion

43. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

44. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objection made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

45. Garfinkle, US Patent Number 5,530,754, has taught a video-on-demand system providing so-called trailers or previews for certain of the video products, and lead-ins for the initial portions of certain products to provide a seamless lead in to program material ordered from the central station.

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure

relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C. Lai whose telephone number is (571) 270-3236. The examiner can normally be reached on M-F 8:30 - 5:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael C. Lai
23DEC2008

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